

Office of Financial Institutions
OVERTIME COMPENSATION

TO WHOM THIS POLICY APPLIES:

All Office of Financial Institutions (OFI) Employees

I. POLICY STATEMENT

Overtime compensation will be awarded according to Civil Service rules and the Fair Labor Standards Act (FLSA), the Federal law governing minimum wage, overtime pay, etc. Compensation for approved overtime hours will be made in the form of compensatory leave.

All overtime work must be authorized in advance by the employee's supervisor. The Deputy Commissioner will regularly review the compensatory leave allowed. Violation of this policy by either subordinate or supervisory staff may result in reprimand or disciplinary action.

II. PURPOSE

It is the intent of this policy to provide guidelines for the consistent assignment of overtime compensation for pre-approved work.

III. DEFINITIONS

Workweek: The Office of Financial Institutions (OFI) hereby establishes the fixed 168 hour period—seven (7) consecutive twenty-four hour periods—from 12:01 a.m., Monday through 12:00 midnight, Sunday, as its regular workweek.

Each employee of OFI shall be advised which days and hours constitute his/her regular workweek and workdays. Regular work hours shall not exceed forty (40) hours in one week (this excludes the lunch period).

Overtime: Time worked by an employee, at the direction of his/her supervisor, in excess of the employee's regularly scheduled hours for the workday or workweek, or work performed on a holiday, or on a day the office is closed.

IV. FLSA CATEGORY DESIGNATION AND COMPENSATION

Non-Exempt Employees: Non-exempt employees are designated as such because they are not exempt from FLSA provisions. An employee who occupies a non-exempt position, and who is required or allowed by his/her supervisor to perform work in excess of a regular 40 hour workweek, shall be credited with compensatory leave at the one and one-half time rate for each excess hour worked. All overtime work must be approved in

advance by the employee's supervisor. A non-exempt employee who is allowed to physically work in excess of his/her regular 40-hour workweek must be compensated; but if the work was performed without the required approval(s), the employee and/or the supervisor may be reprimanded or disciplined.

When an employee occupying a non-exempt position works in excess of his/her regularly recurring workweek or workday; and due to holiday(s) observed and/or any type leave taken—with or without pay—has not physically worked over 40 hours during that workweek, he/she shall be credited with compensatory leave on an hour-for-hour basis.

Overtime for non-exempt employees may be credited in 15 minute increments.

Exempt Employees: Exempt employees are not covered by the provisions of FLSA. An employee who occupies an exempt position and who is required or allowed by his/her supervisor to work in excess of his/her regularly scheduled working hours may be credited compensatory leave on an hour-for-hour basis. FLSA and Civil Service Rules do not require overtime compensation for exempt employees. Voluntary overtime worked by an exempt employee, but not required or approved in advance by his/her supervisor, may be excluded from compensation.

Overtime for exempt employees may be credited in 15 minute increments IF the overtime to be credited for a workday is a minimum of thirty (30) minutes.

V. CHARTS – OVERTIME COMPENSATION

The following charts will help clarify overtime compensation rules:

A. EMPLOYEE HAS PHYSICALLY WORKED IN EXCESS OF 40 HOURS

The Appointing Authority may use any of the options listed below:

- | | | |
|-------------------|-----|---|
| <u>NON-EXEMPT</u> | (1) | Compensatory leave earned at time and one-half rate |
| <u>EXEMPT</u> | (1) | Compensatory leave earned at straight time rate |
| | (2) | No compensatory leave |

B. EMPLOYEE HAS NOT PHYSICALLY WORKED IN EXCESS OF 40 HOURS

The Appointing Authority may use any of the options listed below:

- | | | |
|-------------------|-----|---|
| <u>NON-EXEMPT</u> | (1) | Compensatory leave earned at straight time rate |
| <u>EXEMPT</u> | (1) | Compensatory leave earned at straight time rate |
| | (2) | No compensatory leave |

C. OVERTIME FOR WORK ON HOLIDAYS

Employee has physically worked in excess of 40 hours:

- | | | |
|-------------------|-----|---|
| <u>NON-EXEMPT</u> | (1) | Compensatory leave earned at time and one-half rate |
| <u>EXEMPT</u> | (1) | Compensatory leave earned at straight time rate |

Employee has NOT physically worked in excess of 40 hours:

- | | | |
|-------------------|-----|---|
| <u>NON-EXEMPT</u> | (1) | Compensatory leave earned at straight time rate |
| <u>EXEMPT</u> | (1) | Compensatory leave earned at straight time rate |
| | (2) | No compensatory leave |

VI. **OVERTIME COMPENSATION FOR MEAL PERIODS**

Supervisors should make sure that non-exempt employees are completely relieved of all duties during the lunch period. Non-exempt employees should not be assigned nor volunteer for any type of duties during the lunch period. For example, answering the phone or assisting persons who stop by while the non-exempt employee is having lunch at his/her desk. When a non-exempt employee is required or allowed to perform any duties during the meal period, that time is considered working time and is subject to overtime compensation. If any employee is interrupted by work during the lunch period, the lunch period may be extended by the amount of time the employee was interrupted.

VII. **OVERTIME COMPENSATION FOR SCHOOLS, TRAINING PROGRAMS, LECTURES, MEETINGS, CONFERENCES, ETC.**

Non-Exempt and Exempt Employees – Schools/Training – Approved Attendance

OFI employees may be credited with compensatory leave for approved attendance at schools, meetings, training programs, and related activities, either on weekends, overnight, or outside normal work hours. Actual travel time associated with attendance at schools, meetings, etc., may also be credited as compensatory leave. (See Section X – Overtime Compensation for Travel for details of when and how much travel time may be credited.)

Social Functions – Non-Exempt and Exempt Employees

Compensatory leave will **NOT** be credited to any OFI employee for attendance at social functions related to schools, meetings, or training programs (e.g., banquets, cocktail parties, etc.).

VIII. OVERTIME COMPENSATION FOR WORK COMPLETED AT HOME OR IN HOTEL

Overtime will **NOT** be permitted for work performed at home. Prior approval of the appropriate Chief Examiner may be granted for work performed after regular working hours in a hotel room.

IX. OVERTIME COMPENSATION FOR “HOMEWORK” NECESSARY FOR REQUIRED SCHOOLS OR TRAINING PROGRAMS

With approval of the Appointing Authority, employees may be allowed to earn limited compensatory leave for homework hours based on estimates for individual courses.

X. OVERTIME COMPENSATION FOR TRAVEL

Under the FLSA, overtime compensation for time spent in transit to and from a travel destination while on official travel status at the direction of the Appointing Authority, whether on weekends, overnight, or outside normal work hours, is determined by the kind of travel involved.

A. HOME TO WORK TRAVEL

Travel from home to work (and visa versa) is not considered work time. Further, when an employee’s daily work site is changed from his/her normal work site to a different work site, the employee’s normal commute time between his/her home and his/her regular work site will not be counted as work time travel. Therefore the normal commute time is deducted from any additional travel required and is not subject to overtime.

B. TRAVEL FOR CALL-BACK OR EMERGENCY CALLS

When an employee has gone home after completing a day's work and is subsequently called out at night on an emergency job, all time spent on such travel (to and from the emergency site) is considered work time and overtime compensation shall be granted.

C. OUT-OF-TOWN TRAVEL – SPECIAL ONE-DAY ASSIGNMENT

When an employee is given a special one-day assignment in another city that does not require an overnight stay, such time spent traveling is counted as hours worked. Overtime compensation shall be granted for such travel outside an employee's regular workday. However, all the time involved is not counted. The normal commute time between an employee's home and the regular work site (during the employee's departure and return) is deducted since, except for the special assignment, the employee would have had to report to the regular work site.

D. OUT-OF-TOWN TRAVEL – OVERNIGHT (After Regular Work Hours or Weekends/Holidays)

When employees are approved to travel for schools, training, lectures, meetings, conferences, etc., the travel time is compensable within the following guidelines:

1. Prior to any out-of-town travel that will involve compensatory time, the immediate supervisor must give prior approval for the approximate amount of compensatory time expected to be claimed by the traveling employee by approving the approximate departure and return time of the trip. A separate compensatory request form should be completed for this purpose with a copy of the flight itinerary attached. This approval of travel time will be based, in part, on the availability of flights. Adequate time to complete the assignment/training prior to returning home should be allowed, but employees will not receive compensatory leave for special arrangements made for personal reasons. If an employee is going early or staying longer for personal reasons, a copy of the most direct itinerary as well as the actual itinerary must be attached to the original compensatory request form. Any deviations, such as flight delays, should be explained on the final compensatory request form submitted by the employee. [NOTE: The compensatory request form with the prior approval of the supervisor should be attached to the final compensatory request form that is submitted to the BRMO.]
2. Approved overtime begins when the employee leaves home to arrive at the airport with a maximum of one hour wait at the airport prior to the flight and will continue until he/she arrives at overnight accommodations or the location of the school, conference, etc. Overtime will accrue in a similar manner for the return trip, i.e., until the employee arrives home. No idle time will be

deducted if the employee takes the most expedient flight for his/her return trip.

3. On those occasions that actual travel time exceeds the travel time expected (i.e., flight delay), the employee must note the reason on his/her compensatory request form and the flight itinerary. If the delay is overnight, the employee will be on work time until he/she arrives at the hotel and will pick back up the next morning with adequate travel time back to the airport to wait a maximum of one hour prior to the flight.
4. If an employee elects to arrive early or stay late for personal reasons, the travel time on the alternate date may be claimed as compensatory time; however, flight or other travel delays will not be allowed compensatory time on the alternate travel date. Annual leave is required for non-travel time if employee elects to travel on alternate dates during regular work hours.
5. Prior to approving an alternative mode of transportation, the appointing authority must have supporting documentation to show that no additional cost to the state will be incurred. A sample form is attached. If an employee obtains the appointing authority's permission to use alternative transportation other than by air, overtime may be compensated for actual time if cost effective. If the trip by alternate transportation is not the most cost effective route, overtime compensation will be limited to the same time it would take to fly to the same destination with time included for check-in/pre-boarding, travel to the airport, etc., in the overtime.
6. When a state car is used for travel, actual driving time will be allowed. The appointing authority must approve the use of a state car for out-of-state travel.
7. When more cost effective for the agency, overtime may be allowed by supervisors when employees elect to commute from the official domicile to a duty location rather than stay overnight. The supervisor may authorize mileage reimbursement for use of a privately owned vehicle if more cost effective.
8. In general, employees on flex schedules that exceed 8-hour work days must revert to 8-hour work days during training sessions. For example, an employee may not be credited with a 10-hour work day when attending an 8-hour training session. Also, flexible work hours should be changed to facilitate the training course's hours.

XI. DOCUMENTATION OF COMPENSATORY LEAVE

- A. Every effort should be made to submit claims for compensatory leave to the BRMO with all necessary supporting documentation within the pay period that

the compensatory leave is earned or as soon as possible upon the employee's return to work. Incompletely documented forms will be returned to the supervisor. Claims made later than two weeks after an exempt employee's return to work may be denied.

- B. Supporting documentation includes copies of the actual flight itinerary; the most expedient flight itinerary, if different or to compare driving time; a copy of the agenda of the meeting or function attended; and the original compensatory request form with the prior approval of the supervisor.
- C. Travel hours should stay within the same time zone. If a portion of the travel begins in Central Time (CT) and another portion is in another time zone, convert both times to CT.

XII. CAPS ON ACCUMULATION OF COMPENSATORY LEAVE

- A. PAYABLE LEAVE (earned at the time and one-half rate)
 - 1. FLSA permits the accumulation of compensatory leave earned at the time and one-half rate up to maximum cap of 240 hours.
 - 2. The employee must be paid at the time and one-half rate for any overtime hours above the 240 hour cap during the pay period the overtime hours are earned.

It is the supervisor's responsibility to assure that the 240 hour cap is not exceeded.

- B. NON-PAYABLE LEAVE (earned at the straight time rate)
 - 1. Civil Service rules permit the accumulation of compensatory leave earned at the straight time rate up to a maximum balance of 360 hours (45 days) at the end of the calendar year.
 - 2. If the amount of compensatory leave earned exceeds 360 hours as of December 31 of any year, that balance must be reduced to 360 hours as of close of business on December 31.

XIII. EMPLOYEE USE OF COMPENSATORY LEAVE

An employee who has been credited with non-payable compensatory leave (earned at the straight time rate) may be required to take all or part of such leave at any time.

An employee who has been credited with payable compensatory leave (earned at the time and one-half rate) must be allowed to use this time within a "reasonable period" after the

employee requests it, unless the employee's absence at the time would unduly disrupt the operations of the office. A supervisor cannot require an employee to use this time when he/she wants them to as opposed to when such use is requested by the employee.

Payable compensatory leave shall be taken before non-payable compensatory leave. All compensatory leave must be taken prior to taking annual leave or leave without pay; however, employees may not be required to use payable compensatory leave for absences covered by the Family and Medical Leave Act. Compensatory leave may be taken in lieu of sick leave at the option of the employee.

XIV. COMPENSATORY LEAVE UPON TRANSFER OR SEPARATION

Unused compensatory leave earned at the time and one-half rate shall be paid upon transfer or separation from the department.

Unused compensatory leave earned at the straight time rate will not be paid upon transfer or separation from the department. The unused leave will be canceled and not recredited upon reemployment.

An addendum follows with examples of compensatory leave requests.

Any deviation from the above policy requires appointing authority approval.

APPROVED BY:



John Ducrest, CPA
Commissioner

Attachment -- Comparison Form for Alternate Mode of Travel

ADDENDUM

- (1) An employee leaves his residence at 7:00 a.m. to travel to the airport to catch a flight on Sunday to Washington, DC. The employee will be attending a conference that will begin on Monday. The employee's flight departs at 10:00 a.m., and the employee lives 30 minutes from the airport. Since the employee could have left his residence at 8:30 a.m. in order to have a maximum wait at the airport of one hour prior to the flight, his work hours begin at 8:30 a.m. The employee arrives in DC at 2:00 p.m. (Central Time) and at his hotel at 2:30 p.m. (Central Time). The supervisor should have given prior approval for up to 6 hours compensatory leave. Since there were no delays or changes to his flight itinerary, this employee would claim up to 6 hours of compensatory leave.
- (2) Same as example (1) above, and the employee is using the same itinerary as is listed in the example above for Sunday except he is traveling on the Friday before to take in a quick vacation before the conference begins on Monday. The employee's regular workday is from 8:00 a.m. to 4:30 p.m. with 30 minutes for lunch. The employee must take annual leave from 8:00 a.m. until 8:30 a.m. then again from 2:30 p.m. until 4:00 p.m. if no lunch break was taken during travel. Compensatory leave is not applicable as all travel was during regular work hours.
- (3) Same as example (2) above; however, the travel time on Friday exceeded 8 hours because of flight delays. The employee may claim compensatory leave only if the most direct flight was taken **and** the travel time exceeded 8 hours. If the most direct flight should have taken 6 hours and the actual flight because of delays or personal preferences takes 9 hours, no compensatory time will be allowed **and** the same annual leave that is shown in example (2) must be taken.
- (4) An employee's training session started at 9:30 a.m. and ended at 12:00 noon (Central Time) on a Friday, thus his scheduled 8-hour workday was 9:30 a.m. to 5:30 p.m. if no lunch break was taken because of travel. His return flight departed at 2:30 p.m. (Central Time) on this same day, and he arrived back home at 8:30 p.m. Even though the employee had a couple of hours of idle time prior to his flight, no idle time is deducted since the flight he took was the most expedient available for his return. The supervisor should have given his prior approval for up to 3 hours compensatory leave. Since there were no delays or changes to his flight itinerary, this employee would claim up to 3 hours of compensatory leave.
- (5) Same as example (4) above; however, the employee elects to stay over on Friday night for personal reasons and return home on Sunday. The same return flight listed in example (4) above is taken on Sunday. The employee must take annual leave from 12:00 noon to 5:30 p.m. on Friday, then the employee may claim compensatory leave from 1:00 p.m. (assuming the conference hotel is or was 30 minutes from airport) until 8:30 p.m. If the alternate flight on Sunday experiences delays, no additional compensatory time will be allowed. This will include if the flight is delayed so that the employee is unable to report to work on Monday morning; annual leave must be taken on Monday.